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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/591,731	06/12/2000	Scott C. Willis	L250.104.102	3651
25281	7590	09/21/2004	EXAMINER	
DICKE, BILLIG & CZAJA, P.L.L.C. FIFTH STREET TOWERS 100 SOUTH FIFTH STREET, SUITE 2250 MINNEAPOLIS, MN 55402			CHANG, EDITH M	
			ART UNIT	PAPER NUMBER
			2637	

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/591,731

Applicant(s)

WILLIS ET AL.

Examiner

Edith M Chang

Art Unit

2637

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s): the art rejection of claims 10-11.
4. ☒ Newly proposed or amended claim(s) 1-3, 6-10, and the corrected objection of claims 4-5 and 11-30 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See the continuation sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 1-3 and 6-10.Claim(s) objected to: 4,5 and 11-30.Claim(s) rejected: 31-33.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

Applicant's arguments, filed July 09 2004, with respect to claims 10 and 31-32 have been fully considered. The rejection of claim 10 has been withdrawn, the rejections of claims 31-33 are upheld.

In response to applicant's arguments, the recitation "a fundamental frequency that is time-varying" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

The following claims are objected to because of the following informalities:

Claim 4, line 1: "parallel resistors" is suggested changing to "resistors".

Claim 11, line 1: "the altering means further" is suggested changing to "the altering means".

Claim 12, line 14: "the pulse width generator" is suggested changing to "the pulse width modulator".

Claim 15, line 1: "the plurality of parallel resistors" is suggested changing to "the plurality of resistors".

Claim 19, line 3: "further comprising" is suggested changing to "comprising"; line 4: "the clock signal of the pulse width generator" is suggested changing to "the output of the pulse width modulator"; line 5: "a third voltage" is suggested changing to "a third voltage potential"; line 6: "the clock input" is suggested changing to "the input".

Claim 21, line 2: "and an input" is suggested changing to "and the input".

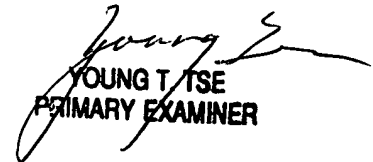
Claim 22, line 6: "further comprising" is suggested changing to "comprising" and line 21: "the pulse width generator" is suggested changing to "the pulse width modulator".

Claim 25, line 1: "parallel resistors" is suggested changing to "resistors".

Claim 26, line 1: "The system of claim 22" is suggested changing to "The system of claim 25".

Claim 29, line 3: "further comprising" is suggested changing to "comprising"; line 4: "the clock signal of the pulse width generator" is suggested changing to "the output of the pulse width modulator"; line 5: "a third voltage" is suggested changing to "a third voltage potential"; and line 6: "the clock input" is suggested changing to "the input".

Claim 33, line 3: "a binary count" is suggested changing to "the binary count".

  
YOUNG T. TSE  
PRIMARY EXAMINER